

THE HON'BLE MRS JUSTICE T.MEENA KUMARI
&
THE HON'BLE MR JUSTICE P.LAKSHMANA REDDY

WEDNESDAY, THE THIRD DAY OF AUGUST
TWO THOUSAND AND FIVE

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WRIT APPEAL NO :1302 of 2005

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Between:

N.V. Mohana Rao and another ..Appellants/Petitioners

And

The District Collector, West Godavari
and four others. .. Respondents.

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THE HON'BLE MRS JUSTICE T.MEENA KUMARI
&
THE HON'BLE MR JUSTICE P.LAKSHMANA REDDY

WRIT APPEAL NO :1302 of 2005

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JUDGMENT: (Per Hon'ble Smt. Justice T. Meena Kumari)

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This writ appeal is filed by the appellants aggrieved by the order dated 9.6.2005 in WVMP.No.562 of 2005 and WPMP No.13375 of 2002 in W.P.No.10887 of 2002, under which the learned Single Judge vacated the order of interim suspension with a direction to the 3rd respondent to conduct investigation in pursuance of the report submitted by the Joint Registrar/District Co-operative Officer, Eluru, West Godavari District.

The appellants herein are the writ petitioners. Originally, the writ petition was filed by the writ petitioners seeking to declare the order in Roc.No.3958/98/A, dated 29.3.2001 issued by the 2nd respondent and consequential proceedings issued by the 3rd respondent in RC.No.1293/98-B, dated 18.5.2001, in lodging a complaint for prosecution as arbitrary and illegal. While admitting the writ petition on 19.6.2002, the learned Single Judge granted interim suspension of the proceedings impugned. Thereupon, the respondents filed an application in W.V.M.P.No.562 of 2005 seeking to vacate the order of interim suspension. The learned Single Judge vacated the interim suspension, on 9.6.2005. Having aggrieved by the same, the present writ appeal has been preferred by the writ petitioners-appellants.

The learned Counsel for the appellants contends that in view of the fact that the interim suspension was vacated, they are likely to be prosecuted during the pendency of the writ petition and hence, prejudice will be caused to them.

The learned Government Pleader appearing on behalf of the respondents contends that as the investigation is going on, there is no immediate threat of prosecution and therefore, the order under appeal needs no interference.

Perused the order under appeal and the other material available on record.

On a perusal of the record, it is apparent that the interim suspension was granted as long back as on 19.6.2002. The respondents filed the vacate suspension order on 4.3.2005 i.e., after lapse of three years. In fact, the interim order subsisted for a period of three years and the proceedings in question were held up during that period. When the respondents did not respond, immediately after stay was granted, there is no necessity to vacate the interim stay granted by the learned Single Judge. If there was any urgency, they would sought to dispose of the writ petition early. The approach of the respondents after lapse of three years shows no bonafides on their part. Therefore, we are of the view that the order under appeal is liable to be set aside.

In view of the foregoing discussion, we feel it is just and necessary to make the interim suspension granted in W.P.M.P.No.13377 of 2002 in Writ petition No.10887 of 2002 so far as proceedings in Roc.No.3958/98/A, dated 29.3.2001 and RC.No.1293/98-B, dated 18.5.2001, absolute, and further to permit the 3rd respondent to proceed with the investigation as directed by the learned Single Judge.

With the above observation, the Writ Appeal is disposed of. No costs.

Registry is directed to post the writ petition for final hearing immediately after Dasara Vacation, 2005.

Justice T. Meena Kumari

Justice P. Lakshmana Reddy

Dated: 03.08.2005

Nn.

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